

# **CITY OF LYNNWOOD**

## **ORDINANCE NO. 2628**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO THE CITY CENTER SUB-AREA AND DEVELOPMENT THEREIN; ESTABLISHING AN INTERIM MITIGATION PROGRAM; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, by Ordinance Nos. 2553 and 2554, the City Council of the City of Lynnwood, Washington, established a City Center sub-area ("City Center") and adopted regulations and guidelines for the land therein to provide for taller and more dense development; and

WHEREAS, the City has determined that new development in the City Center will cause impacts to the City's transportation, parks, and other infrastructure systems and must provide for mitigation; and

WHEREAS, the City has developed a list and approximate cost of mitigation projects for an interim mitigation program and may change the list based upon further and future studies; and

WHEREAS, the City will review the entire mitigation program at least every two years and make adjustments, modifications, and other changes as the City determines necessary to support the development and redevelopment of the City Center; and

WHEREAS, the City shall determine the scope, schedule, budget, and funding measures for the implementation of mitigation projects within the City Center; and

WHEREAS, the City has determined that there are no parks existing within the City Center and therefore the City Center does not meet current levels of service for the City Center; and

WHEREAS, the City has determined that mitigation for traffic impacts will be based on upon net new trips resulting from development within the City Center; and

WHEREAS, in order to serve such new development and redevelopment, the City Council adopted a program for parks and transportation improvements in the City Center necessitated by such development and redevelopment, which shall mitigate the impacts, as determined by the City; and

WHEREAS, the construction of parks and transportation improvements in the City Center mitigates the impact of new development and redevelopment in the City Center and benefits generally the public at large; and

WHEREAS, by Ordinance No. 2627, the City Council established a street grid for the City Center; and

WHEREAS, the City Council has reviewed the proposed interim mitigation fee analysis and assessments that is based upon work by David Evans and Associates, Inc., as well as staff reports, concerning the estimated cost of transportation and park improvements in the City Center; and

WHEREAS, based on such analysis and assessments, the City Council has determined that the interim mitigation program goal for fair and reasonable distribution of the costs of park and transportation improvements in the City Center, is a minimum of 50% for the property owners in the City Center. If the developer elects to proceed through the mitigation program, a development agreement will be prepared for the review and approval by the City Council, and the mitigations will be based on the number of square feet of residential, office and retail space in a proposed project as a function of the traffic and park mitigation fee analysis, assessments and formulas; and

WHEREAS, after further and future studies and as development occurs, these percentages may be modified due to equity issues relative benefit to public/private partners, unforeseen factors, and/or changed conditions as determined by the City; and

WHEREAS, the City Council desires to establish an interim mitigation program for 24 months or until the completion of the SEED Money Study projects, which ever comes first, that will allow property owners in the City Center to mitigate for the impacts of their developments on park and transportation facilities, by providing for a combination of dedication of land, construction of improvements, cash payments and other commitments as authorized in this Ordinance and in a development agreement pursuant to Ordinance No. 2626 and RCW 36.70B.170 through 36.70B.210;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Upon development of real property in the City Center sub-area ("City Center"), the property owner shall dedicate right-of-way thereon for the streets described in Ordinance No. 2627, also known as the Street Grid Ordinance ("Right-of-Way"), and land thereon for parks as described in Ordinance No. 2625, also known as the Zoning Map Ordinance ("Park Land"). The property owner further shall construct street improvements in such dedicated right-of-way and in abutting right-of-way in accordance with City ordinances and specifications unless otherwise approved through a developer agreement. For purposes of this ordinance, the term "development" shall include subdivisions, short subdivisions, planned unit developments, binding site plans, and design review approvals.

Section 2. Sections 2 through 4 of this Ordinance shall establish an interim mitigation program for development of real property in the City Center and construction and financing of parks and transportation improvements therein ("Improvements"). These sections of the Ordinance shall be in effect for 24 months or until the completion of the SEED Money Study projects, which ever comes first.

Section 3. The City and the property owners in the City Center shall participate in funding the cost of mitigation for Improvements in the City Center that are necessary to accommodate new development allowed by Ordinance Nos. 2553 and 2554, as amended, and Ordinance No. 2625, the Zoning Map Ordinance. The total cost of the Improvements, and the pro rata cost of

the improvements by square foot of building to be constructed as part of a development ("Voluntary Mitigation Fees"), are set forth in a separate Resolution. The Public Works Director shall revise the fee schedule, as necessary and appropriate, to conform to new and updated data and analysis. All grants received for City Center Infrastructure mitigation from any governmental or quasi-governmental sources will be credited to the City's proportional share of the infrastructure costs.

Section 4. Upon development of real property in the City Center, the City and the property owner shall enter into a development agreement pursuant to Ordinance No. 2626. The property owner:

1. Shall pay Voluntary Mitigation Fees in effect at the time of development or as agreed to by the City. Date of payment shall be approved by the City and shall be in accordance with the development agreement, and the City and the property owner shall negotiate payment for the Improvements through any combination of Improvement Fees and commitments regarding local improvement district formation and assessments (e.g., no protest agreements and credits against assessments), latecomer reimbursement charges (e.g., credits against reimbursement charges), construction of improvements and other mechanisms as agreed to by the City and the property owner.

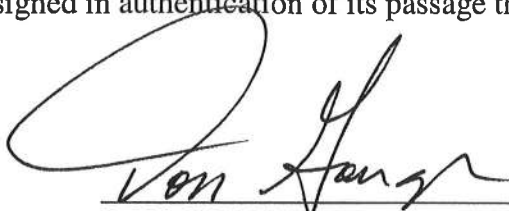
2. Shall receive a credit against any local improvement district assessments and latecomer reimbursement charges later imposed on the real property; and

3. May request the City to modify the Voluntary Mitigation Fees in effect at the time of development to address site specific development mitigations, provided that necessary and appropriate documents are received from the applicant and approved by the Public Works Director.

Section 5. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED THIS 10th day of July, 2006, and signed in authentication of its passage this 14<sup>th</sup>\* day of July, 2006.



DON GOUGH, Mayor

ATTEST:

APPROVED AS TO FORM:



PATRICK DUGAN  
Interim Finance Director



MICHAEL P. RUARK  
City Attorney

\* CORRECTED DATE OF EXECUTION